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STATE OF WISCONSIN
BEFORE THE SOCIAL WORKER SECTION
EXAMINING BOARD OF SOCIAL WORKERS,
MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

DIANA R. MADISON, C.A.P.S.W.,

Case No. LS0003173SOC

RESPONDENT.

FINAL DECISION AND ORDER

The parties to this action for the purposes of § 227.53, Stats., are:

*Diana R. Madison, C.A.P.S.W.
619 W. New York Avenue
Oshkosh, WI 54901*

*Social Worker Section
Wisconsin Examining Board of Social Workers,
Marriage and Family Therapists and Professional Counselors
P.O. Box 8935
Madison, WI 53708-8935*

*Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision in this matter, subject to the approval of the Social Worker Section. The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Diana R. Madison, C.A.P.S.W., Respondent, date of birth February 17, 1953, is certified by the Social Worker Section as an advanced practice social worker in the state of Wisconsin pursuant to certificate number 1157, which was first granted August 11, 1995.
2. Respondent received a Master of Science in Education – Counseling degree from the University of Wisconsin-Oshkosh on June 5, 1995. Respondent completed all requirements necessary for the degree on May 12, 1995.

3. Respondent was granted certification pursuant to the grandparenting provisions of 1991 Wisconsin Act 160, § 21(2)(b), based upon her having obtained a master's degree in professional counseling prior to May 31, 1995. For this reason, Respondent did not take the examination otherwise required for certification.

4. Respondent's last address reported to the Department of Regulation and Licensing is 619 W. New York Avenue, Oshkosh, WI 54901.

5. From July 10, 1995 until her resignation on March 5, 1999, Respondent was employed as a social worker at Winnebago Mental Health Institute (WMHI) in Winnebago, Wisconsin. Since September 28, 1997, Respondent worked as a Social Worker, Senior, in the Gemini Unit, a twenty-bed, inpatient, minimum security, co-ed, adult dual diagnosis (AODA/Mental Illness) treatment unit located at WMHI.

6. WMHI's policy on Patient/Employee Relationships and Department of Health & Family Services (DHFS) work rules prohibit employees from becoming involved in a personal relationship with a patient. The purpose of the policy and work rules is to avoid potential conflicts of interest which could result in unfair treatment of patients, harmful effects on patients' treatment plans and mental condition, security risks, and other problems. Respondent was aware of the policy and work rules and as a new employee signed an acknowledgment that she had read it.

7. On July 25, 1995, Respondent signed an acknowledgment stating that she had received a copy of the WMHI policy on Patient/Employee Relationships and that she was aware of the contents of the policy and the guidelines set down concerning relationships between WMHI employees and patients at WMHI or under the supervision of Division of Care and Treatment Facilities (DCTF) and Department of Corrections (DOC).

8. Mr. A was a patient at the WMHI Gemini Unit and was on Respondent's assigned caseload from January 12, 1998 through May 20, 1998.

9. Sometime after his discharge from the Gemini Unit at WMHI, Mr. A became a client at the Pine Crest Center in Elroy, Wisconsin. Pine Crest is a half-way house for individuals with dual diagnoses of mental illness and alcohol and drug abuse problems.

10. On March 4, 1999, the Institution Unit Director of the Gemini Program received a telephone call from a supervisor at Pine Crest who:

- a. Reported that a client at Pine Crest [Mr. A] had reported that a staff member at Gemini had been having a sexual relationship with him.
- b. Did not provide Mr. A's name, but identified him as a 31-year-old male from Ozaukee County who had been a patient at the Gemini Program from January through May of 1998.
- c. Identified the staff person at Gemini as a married female who was 14 years older than Mr. A.
- d. Reported that Mr. A claimed the staff member was at Mr. A's apartment in Mequon, Wisconsin, on two different occasions and that their relationship had been sexual.
- e. Reported that Mr. A claimed that he and the staff member had been in contact via U.S. mail and e-mail until at least the previous week.

11. Respondent overheard the telephone conversation, which was in the nursing station on the Gemini Unit, and asked the unit director if he had just taken a referral. The unit director explained to Respondent what he had just learned and asked Respondent who from Ozaukee County was a patient in the Gemini Program from January until May of 1998.

12. Respondent identified the patient as Mr. A and identified herself as the staff member who had the relationship with him.

13. On March 4, 1999, the unit director and the Director of Human Resources met with Respondent to inform her that she was being relieved from duty with pay, pending an investigation of the allegations.

14. Respondent has admitted that the following conduct occurred:

- a. Respondent and Mr. A became friends via correspondence which began approximately one month after Mr. A's discharge from WMHI.
- b. On October 4, 1998, Respondent spent an afternoon with Mr. A in Milwaukee.
- c. On October 11, 1998, Respondent met Mr. A at his home in Cedarburg, Wisconsin, at which time they engaged in sexual contact.
- d. On October 15, 1998, Respondent told her husband about her relationship with Mr. A and they

subsequently sought marital counseling.

e. Respondent received a letter from Mr. A in November and again in December 1998.

f. Respondent wrote back to Mr. A in December 1998.

g. In January 1999, Mr. A opened an e-mail account and Respondent corresponded with him via e-mail.

h. In approximately the last week of February 1999, Respondent told Mr. A the relationship must stop.

15. On March 5, 1999, a pre-termination meeting was held regarding Respondent's violation of DHFS work rules, specifically, becoming involved in a personal relationship with a patient. Respondent resigned from her social work employment at WMHI because of violations of DHFS work rules.

CONCLUSIONS OF LAW

1. The Social Worker Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has jurisdiction over this matter pursuant to §457.26(2), Stats.

2. The Social Worker Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has authority to enter into this stipulated resolution of this matter pursuant to §227.44(5), Stats.

3. Respondent, by engaging in sexual conduct with a former client within 2 years of termination of professional services, has committed unprofessional conduct as defined by Wis. Admin. Code § SFC 20.02(11), and is subject to discipline pursuant to § 457.26(2)(f), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the certificate of Diana R. Madison, C.A.P.S.W., to practice as an advanced practice social worker in the state of Wisconsin is hereby **SUSPENDED** for a period of at least two years, effective immediately.

2. That Respondent may petition the Social Worker Section for the termination of the suspension, after two years, under the following terms and conditions:

a. Respondent shall, at Respondent's own expense, have undergone an assessment by a mental health care provider experienced in assessing health care providers who have become involved sexually with patients or clients, who has not treated Respondent.

b. The practitioner performing the assessment must have been approved by the Section, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed.

c. Respondent must provide proof sufficient to the Section that Respondent can practice with reasonable skill and safety of clients and public.

d. If the Section determines to end the suspension, Respondent's certificate shall be limited in a manner to address any concerns the Section has as a result of the conduct set out in the findings of fact and to address any recommendations resulting from the assessment, including, but not limited to:

i. Psychotherapy, at Respondent's expense, by a therapist approved by the Section, to address specific treatment goals, with periodic reports to the Section by the therapist.

ii. Additional professional education in any identified areas of deficiency.

iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Section, with periodic reports to the Section by the supervisor.

e. Respondent shall appear before the Section on an annual basis, if requested by the Section, to review the progress of any treatment and rehabilitation.

3. Any request for approval of an evaluator, therapist, supervisor or educational program required by this order shall be mailed or delivered to:

Department Monitor

Department of Regulation And Licensing

Division of Enforcement

1400 East Washington Ave.

P.O. Box 8935

Madison, WI 53708-8935

4. If Respondent believes that the Section's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Section under paragraph 2 is inappropriate, Respondent may seek a class 1 hearing pursuant to §227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Section's decision is arbitrary or capricious. The suspension or limitations on Respondent's certificate shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 2 above, may constitute grounds for revocation of Respondent's certificate as an advanced practice social worker in Wisconsin. Should the Section determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 2 above, the Section may order that Respondent's certificate be summarily suspended pending investigation of and hearing on the alleged violation.

6. Respondent shall bear all costs incurred as a result of satisfying this Order.

The rights of a party aggrieved by this Decision to petition the Section for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 16th day of March, 2000.

Cornelia Gordon-Hempe

Chairperson

Social Worker Section